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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,250	10/23/2001	Kunio Otsuki	FUJ2-BP90	2112

7590 07/30/2003
PRICE AND GESS
2100 S.E. Main St., Ste. 250
Irvine, CA 92614

EXAMINER

CRUZ, MAGDA

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,250

Applicant(s)

OTSUKI ET AL.

Examiner

Magda Cruz

Art Unit

2851

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☒ Claim(s) 2,3,6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. Figures 4 and 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Vurens.

Vurens (US Patent Number 6,307,627 B1) discloses a spectral ellipsometer (1) having a source of multi-wavelength light (10), an optical system (7) for directing the light (100), and a detecting optical system (9) for receiving light after contact with a sample (5) surface; the improvement comprising an optical element (12) for receiving the multi-wavelength light (10) directed from the optical system (7) and focusing the multiple wavelength light onto a single spot (P) on the sample (5) surface (column 5, lines 52-66). A method of optically determining the characteristics of a sample surface (column 2, lines 15-18), providing a multi-wavelength light (column 5, lines 52-54); polarizing the multi-wavelength light (column 5, lines 56-58); directing the polarized multi-wavelength light to focus at an oblique angle on a single point on a sample surface (column 5, lines 34-46); measuring the reflected polarized light from the sample surface (column 6, lines 3-10), and determining the characterization from the change in polarization determined in the measured light (column 6, lines 11-40).

Allowable Subject Matter

5. Claim 4 is allowed.
6. Claims 2-3 and 6-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach a spectral ellipsometer, comprising in combination with the additionally recited elements, an optical element that is a spherical prism, wherein the optical element is a polarizing prism with at least one curved surface for transmitting the multi-wavelength light, a prism polarizer employed in the light incidence optical system with a curved light-incident surface and a curved light-outgoing surface that is orthogonal with respect to a progressing direction of the respective direction of incident and outgoing light; comprising the method wherein the directing step includes a spherical prism polarization, having an incident convex surface and an exiting concave surface.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chen et al. (US Patent Number 5,581,350) discloses an ellipsometer including a processor programmed to control the analyzer, polarizer, and other ellipsometer components, and to process the data measured by the ellipsometer to perform the calibration method automatically.

Hirosawa (US Patent Number 6,486,951 B2) teaches an apparatus for evaluating an anisotropic thin film, an optical system generates a light beam having a predetermined diameter and polarization state to project the light beam as incident into a thin film sample corresponding to the anisotropic thin film.

Gee (US Patent Number 3,904,293) shows a non-contact method for measuring fine and coarse textural characteristics of material surfaces by detecting the light reflected from the surface and analyzing the degree of depolarization of the polarized incident light.


Spanier et al. (US Patent Number 5,166,752) discloses the ellipsometer and method involve directing polarized light for interaction with an optical system under study at different angles of incidence from a single beam of light and detecting the light interacted with the optical system by reflection and/or transmission for each of a plurality of different angles of incidence.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Magda Cruz whose telephone number is (703)308-6367. The examiner can normally be reached on Monday through Thursday 8:00-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on (703)308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9318 for regular communications and (703)872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1782.

Magda Cruz
Patent Examiner
July 21, 2003


RUSSELL ADAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800